

ADOPTION OF TITLE 2, DIVISION 9, CHAPTER 1
CALIFORNIA CODE OF REGULATIONS

Chapter 1. Interagency Responsibilities for Providing Services to Pupils with Disabilities

Article 1. General Provisions

60000. SCOPE

60000.

The provisions of this chapter shall implement Chapter 26.5, commencing with Section 7570, of Division 7 of Title 1 of the Government Code relating to interagency responsibilities for providing services to pupils with disabilities. This chapter applies to the State Departments of Mental Health, Health Services, Social Services, and their designated local agencies, and the California Department of Education, school districts, county offices, and special education local plan areas.

The intent of this chapter is to assure conformity with the federal Individuals with Disabilities Education Act or IDEA, Sections 1400 et seq. of Title 20 of the United States Code, and its implementing regulations, including Sections 76.1 et seq. and 300.1 et seq. of Title 34 of the Code of Federal Regulations. Thus, provisions of this chapter shall be construed as supplemental to, and in the context of, federal and state laws and regulations relating to interagency responsibilities for providing services to pupils with disabilities.

Authority Cited: Section 7587, Government Code.

Reference: Section 7570, Government Code.

Adopt Section 60010 to read:

60010. EDUCATION DEFINITIONS

60010.

- (a) Words shall have their usual meaning unless the context or a definition of a word or phrase indicates a different meaning. Words used in their present tense shall include the future tense; words in the singular form shall include the plural form; and the use of a masculine gender shall include the feminine gender.
- (b) “Administrative designee” means the individual who fulfills the role as described in paragraph (1) of subsection (b) of Section 56341 of the Education Code and paragraph (1) of subsection (a) of Section 300.344 of Title 34 of the Code of Federal Regulations.
- (c) “Assessment” means an individual evaluation of a pupil in all areas of suspected disability in accordance with Sections 56320 through 56329 of the Education Code and Sections 300.530 through 300.534 of Title 34 of the Code of Federal Regulations.
- (d) “Assessment plan” means a written statement that delineates how a pupil will be evaluated and meets the requirements of Section 56321 of the Education Code ~~and Sections 300.504 and 300.505 of Title 34 of the Code of Federal Regulations.~~
- (e) “Confidentiality” means the restriction of access to verbal and written communications, including clinical, medical and educational records, to appropriate parties under Section 99.3 of Title 34 of the Code of Federal Regulations, Section 300.560 et seq. of Title 34 of the Code of Federal Regulations, Sections 827, 4514, 5328, and 10850 of the Welfare and Institutions Code, Section 2890 of Title 17 of the California Code of Regulations, and Sections 49060 through 49079 of the Education Code.
- (f) “County superintendent of schools” means either an appointed or elected official who performs the duties specified in Chapter 2 (commencing with Section 1240) of Part 2 of Title 1 of the Education Code.
- (g) “Day” means a calendar day pursuant to Section 56023 of the Education Code.
- (h) “Designated instruction and services” means specially designed instruction and related services described in subsection (b) of Section 56361 and subsection (b) of Section 56363 of the Education Code, and Section 3051 of Title 5 of the California Code of Regulations, as may be required to assist a pupil with a disability to benefit educationally.
- (i) “Individualized education program,” hereinafter “IEP,” means a written statement developed in accordance with Section 7575 of the Government Code, Sections 56341 and 56342 of the Education Code and Sections 300.3410 through 300.34950 of Title 34 of the Code of Federal

Regulations, which contains the elements specified in Section 56345 of the Education Code and Section 300.346⁷ of Title 34 of the Code of Federal Regulations.

- (j) “Individualized education program team,” hereinafter “IEP team,” means a group which is constituted in accordance with Section 56341 of the Education Code and ~~Section 300.344 of Title 34 of the Code of Federal Regulations~~ Title 20, United States Code Section 1414(d)(1)(B).
- (k) “Local education agency,” hereinafter “LEA,” means a school district or county office of education which provides special education and related services.
- (l) “Local interagency agreement” means a written document negotiated between two or more public agencies which defines each agency's role and responsibilities for providing services to pupils with disabilities and for facilitating the coordination of these services in accordance with the provisions of Section 56220 of the Education Code.
- (m) “Necessary to benefit from special education” means a service that assists the pupil with a disability in progressing toward the goals and objectives listed in the IEP in accordance with subsection (d) of Section 7572 and paragraph (2) of subsection (a) of Section 7575 of the Government Code.
- (n) “Nonpublic, nonsectarian agency” means a private, nonsectarian establishment or individual that is certified by the California Department of Education and that provides related services and/or designated instruction and services necessary for a pupil with a disability to benefit educationally from the pupil’s IEP. It does not include an organization or agency that operates as a public agency or offers public service, including but not limited to, a state or local agency, or an affiliate of a state or local agency, including a private, nonprofit corporation established or operated by a state or local agency, a public university or college, or a public hospital.
- (o) “Nonpublic, nonsectarian school” means a private, nonsectarian school that enrolls individuals with exceptional needs pursuant to an IEP, employs at least one full-time teacher who holds an appropriate credential authorizing special education services, and is certified by the California Department of Education. It does not include an organization or agency that operates as a public agency or offers public services, including but not limited to, a state or local agency, or an affiliate of a state or local agency, including a private, nonprofit corporation established or operated by a state or local agency or a public university or college.
- (p) “Parent” includes any person having legal custody of a child. “Parent,” in addition, includes any adult pupil for whom no guardian or conservator has been appointed and the person having custody of a minor if neither the parent nor legal guardian can be notified of the educational action under consideration. “Parent” also includes a parent surrogate who has been appointed in accordance with Section 7579.5 of the Government Code and Section 56050 of the Education Code. The term “Parent” does not include the state or any political subdivision of government.

- (q) “Pupil” or “Pupil with a disability” means those ~~children~~ students, birth through 21 years of age, as defined in Section 300.7 of Title 34 of the Code of Federal Regulations, including those with mental retardation or autism, who meet the requirements of Section 56026 of the Education Code and Sections 3030 and 3031 of Title 5 of the California Code of Regulations and who, because of their impairments, need special education and related services as defined in ~~paragraph (1) of subsections (a) (22) and (25)~~ of Section 1401 of Title 20 of the United States Code. This term includes handicapped children, children with disabilities and individuals with exceptional needs as defined in Section 56026 of the Education Code. The determination that an individual is a pupil with a disability is made only by an IEP team pursuant to Section 56342 of the Education Code.
- (r) “Qualified” means that a person has met federal and state certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services, or, in the absence of such requirements, meets the state-education-agency-approved or recognized requirements and adheres to the standards of professional practice established in federal and state law or regulation, including the standards contained in the California Business and Professions Code. ~~Nothing in this definition shall be construed as restricting the activities of a graduate needing direct hours leading to licensure or of a student teacher or intern leading to a graduate degree at an accredited or approved college or university, as authorized by state laws or regulations.~~
- (s) “Related services” means those services that are necessary for a pupil with a disability to benefit from his or her special education program in accordance with ~~paragraph (17) of subsection (a) of Section 1401 of Title 20 of the United States Code and Section 300.13 of Title 34 of the Code of Federal Regulations~~ Title 20, United States Code Section 1401(22).
- (t) “Special education” means specially designed instruction and related services to meet the unique needs of a pupil with a disability, as described in Section 56031 of the Education Code and Section ~~300.1426~~ 300.1426 of Title 34 of the Code of Federal Regulations.
- (u) “Special education local plan” means a plan developed in accordance with Sections ~~56170 through 56172~~ 56200 through 56218 of the Education Code which identifies each participating LEA's roles and responsibilities for the provision of special education and related services within the service area.
- (v) “Special education local plan area,” hereinafter “SELPA,” means the service area covered by a special education local plan, and is the governance structure created under any of the planning options of Section ~~56170~~ 56200 of the Education Code.

Authority Cited: Section 7587, Government Code.

Reference: Sections 7570 and 7579.5, Government Code. Section 5328, Welfare and Institutions Code. Sections 56028, 56034, 56050, 56170 to 56172, 56220, and 56325, Education Code. Clovis Unified School District (1990, Ninth Circuit) 903 F.2d 635.

Adopt Section 60020 to read:

60020. MENTAL HEALTH DEFINITIONS

60020.

- (a) “Community mental health service” means a mental health program established by a county in accordance with the Bronzan-McCorquodale Act, Part 2 (commencing with Section 5600) of Division 5 of the Welfare and Institutions Code.
- (b) “County of origin” for mental health services is the county in which the parent of a pupil with a disability resides. If the pupil is a ward or dependent of the court, an adoptee receiving adoption assistance, or a conservatee, the county of origin is the county where this status ~~was first established by the local court~~ currently exists. For the purposes of this program the county of origin shall not change for pupils who are between the ages of 18 and 22.
- (c) “Expanded IEP team” means an IEP team constituted in accordance with Section 7572.5 of the Government Code. This team shall include a representative of the community mental health service authorized to make placement decisions.
- (d) “Host county” means the county where the pupil with a disability is living when the pupil is not living in the county of origin.
- (e) “Local mental health director” means the officer appointed by the governing body of a county to manage a community mental health service.
- (f) “Medication monitoring” includes all medication support services with the exception of the medications or biologicals themselves and laboratory work. Medication support services include prescribing, administering, dispensing and monitoring of psychiatric medications or biologicals necessary to alleviate the symptoms of mental illness.
- (g) “Mental health assessment” is a service designed to provide formal, documented evaluation or analysis of the nature of the pupil's emotional or behavioral disorder. It is conducted in accordance with California Code of Regulations, Title 9, Section 543 (b), and Sections 56320 through 56329 of the Education Code by qualified mental health professionals employed by or under contract with the community mental health service.
- (h) “Mental health assessment plan” means a written statement developed for the individual evaluation of a pupil with a disability who has been referred to a community mental health service to determine the need for mental health services in accordance with Section 56321 of the Education Code.

- (i) “Mental health services” means mental health assessments and the following services when delineated on an IEP in accordance with Section 7572 (d) of the Government Code: psychotherapy as defined in Section 2903 of the Business and Professions Code provided to the pupil individually or in a group, collateral services, medication monitoring, intensive day treatment, day rehabilitation, and case management. These services shall be provided directly or by contract at the discretion of the community mental health service of the county of origin.
- (j) “Qualified mental health professional” includes the following licensed practitioners of the healing arts: a psychiatrist; psychologist; clinical social worker; marriage, family and child counselor; ~~recreation therapist~~; registered nurse, mental health rehabilitation specialist, and others who have been waived under Section 5751.2 of the Welfare and Institutions Code. Such individuals may provide mental health services, consistent with their scope of practice.

Authority Cited: Section 7587, Government Code.

Reference: Section 56320, Education Code. Sections 542 and 543 of Title 9, California Code of Regulations.

Adopt Section 60025 to read:

60025. SOCIAL SERVICES DEFINITIONS

60025.

- (a) “Care and supervision” as defined in Welfare and Institutions Code Section 11460, includes food, clothing, shelter, daily supervision, school supplies, a child’s personal incidentals, liability insurance with respect to a child, and reasonable travel to the child’s home for visitation.
- (b) “Certified family home” as defined in Welfare and Institutions Code Section 11400 (c), means a family residence certified by a foster family agency licensed by the California Department of Social Services and issued a certificate of approval by that agency as meeting licensing standards, and is used only by that foster family agency for placements.
- (c) “Certified, license-pending home” as described in Welfare and Institutions Code Sections 361.2(h), 727(b), and 16507.5 (b), is a home that has a pending application for licensure as a foster family home, has been certified by the county as meeting the minimum standards for foster family homes, and is lacking any deficiencies which would threaten the physical health, mental health, safety or welfare of the pupil.
- (d) “Community care facility” is a facility licensed by the California Department of Social Services as defined in Health and Safety Code Section 1502(a). For the purposes of this chapter, a community care facility means those facilities listed and defined in this article that provide 24-hour residential care to children.
- (e) “Community treatment facility” as defined in Health and Safety Code Section 1502(a)(8), means any residential facility that provides mental health treatment services to children in a group setting which has the capacity to provide secure containment. The facility’s program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 of the Welfare and Institutions Code.
- (f) “Foster family agency” as defined in Welfare and Institutions Code Section 11400 (g) and Health and Safety Code Section 1502(a)(4), means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private agencies shall be organized and operated on a nonprofit basis.

- (g) “Foster family home” as defined in Health and Safety Code Section 1502(a)(5) means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. It also means a foster family home described in Health and Safety Code Section 1505.2. For the purpose of this Chapter a foster family home includes a small family home pursuant to Education Code Section 56155.5(b), or the approved home of a relative.
- (h) “Group home” as defined in title 22 of the California Code of Regulations, Section 80001(g)(1) means any facility of any capacity, that provides 24-hour care and supervision to children in a structured environment with such services provided at least in part by staff employed by the licensee. The care and supervision provided by a group home shall be nonmedical except as permitted by Welfare and Institutions Code, Section 17736(b). For the purposes of this Chapter, a group home is a nondetention facility that is organized and operated on a nonprofit basis in accordance with Welfare and Institutions Section 11400 (h).
- (i) “Licensed children's institution” as defined in Education Code Section 56155.5(a), for the purposes of this Chapter, means the following community care facilities licensed by the California Department of Social Services: a group home, foster family agency, and community treatment facility.
- (j) “Small family home” as defined in Health and Safety Code Section 1502(a)(6), means any residential facility, in the licensee’s family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code.

Authority cited: Section 7587, Government Code. Sections 10553, 10554, 11462(i) and (j) and 11466.1, Welfare and Institutions Code.

Reference: Sections 361.2(h), 727 (b), 4094, 11400 (c), 11400(g), 11400(h), 11402(a), 16507.5(b), 17710, 17736(b), and 18350, Welfare and Institutions Code. Section 1502(a), Health and Safety Code. Section 56155.5, California Education Code. Section 80001(g)(1), Title 22, California Code of Regulations.

Adopt Article 2 and Section 60030 to read:

Article 2. Mental Health Related Services

60030. LOCAL MENTAL HEALTH AND EDUCATION INTERAGENCY AGREEMENT 60030.

- (a) Each community mental health service and each SELPA within that county shall develop a written local interagency agreement in order to facilitate the provision of mental health services.
- (b) The local mental health director, the county superintendent of schools and/or the local SELPA director, or their designees, shall review the local interagency agreement(s) by July 1 of each year according to a schedule developed at the local level between the agencies but no less frequently than every three years and ensure that the agreement or agreements are revised as appropriate, to assure compliance with this chapter. This provision does not preclude revision of the local interagency agreement at any time that they determine a revision is necessary. The content of the agreement will remain in effect until the agencies mutually agree upon any revisions.
- (c) The local interagency agreement shall identify a contact person for each agency and include, but not be limited to, a delineation of the procedures for:
 - (1) Monitoring compliance with the time lines specified in paragraph (a) of Section 56321 and Section 56344 of the Education Code. This system shall designate each participating agency's responsibilities and identify who will be responsible for monitoring the system;
 - (2) Resolving interagency disputes at the local level, including procedures for the continued provision of appropriate services during the resolution of any interagency dispute, pursuant to Government Code Section 7585(f). For purposes of this subdivision only, the term "appropriate" means any service identified in a pupil's IEP, or any service the pupil actually was receiving at the time of the interagency dispute;
 - (3) ~~Timely delivery~~ Delivery of a completed referral package to the community mental health service pursuant to subsection (d) of Section 60040 ~~and timely exchange of~~ as well as any other relevant pupil information in accordance with procedures ensuring confidentiality within five (5) business days;
 - (4) ~~Timely notification by the~~ A host county to notify the community mental health service of the county of origin within two (2) working days when a pupil with a disability is placed within the host county by courts, regional centers or other agencies for other than educational reasons;
 - (5) Development of a mental health assessment plan and its implementation;

- (6) The participation of qualified mental health professionals at the IEP team meetings pursuant to subsections (d) and (e) of Section 7572 and Section 7572.5 of the Government Code;
- (7) ~~Adequate~~ At least ten (10) working days prior notice to the community mental health service of all IEP team meetings, including annual IEP reviews, when the participation of its staff is required. ~~A time frame for giving notice shall be addressed;~~
- (8) The development, review or amendment of the portions of the IEP relating to mental health services, including the goals and objectives of mental health services ~~and the initiation, type, frequency or duration of these services~~ in accordance with ~~Section 56341 of the Education Code and Section 300.504 of Title 34 of the Code of Federal Regulations~~ Title 20, United States Code Section 1414(d)(1)(A)(vi);
- (9) The provision of mental health services as soon as possible following the development of the IEP pursuant to Section 300.342 of Title 34 of the Code of Federal Regulations;
- (10) ~~The continuation~~ Description of the length and duration of mental health services and transportation during school vacation pursuant to the IEP beyond the traditional school year including the extended year program;
- (11) The transportation of pupils with disabilities when necessary for the provision of mental health services pursuant to the IEP and Section 60200 (d)(1)(2);
- (12) The provision of space, support staff and services at the school site, as appropriate, for the delivery of mental health services;
- (13) The identification of a continuum of placement options. These options may include day, public, and state certified nonpublic, nonsectarian school programs, and residential facilities as listed in Section 60025. The community mental health service and the SELPA shall identify a list of mental health, education, and community services that may serve as alternatives to a residential placement for a pupil with a disability who is seriously emotionally disturbed;
- (14) The provision of a system for monitoring contracts with nonpublic, nonsectarian schools to ensure that services on the IEP are provided;

- (15) The development of a resource list composed of qualified mental health professionals who conduct mental health assessments and provide mental health services. The community mental health service shall provide the LEA with a copy of this list and monitor these contracts to assure that services as specified on the IEP are provided;
- (16) The residential placement of a pupil pursuant to Section 60100;
- (17) ~~The cross training of~~ Mutual staff development for education and mental health staff pursuant to Section 7586.6 (a) of the Government Code.

Authority Cited: Section 7587, Government Code.

Reference: Section 5608, Welfare and Institutions Code. Sections 56140, 56321, and 56344, Education Code. Section 1414(d), Title 20, United States Code.

Adopt Section 60040 to read:

60040. REFERRAL TO COMMUNITY MENTAL HEALTH SERVICES 60040.
FOR RELATED SERVICES

- (a) A LEA, IEP team, or parent may initiate a referral for assessment of a pupil's social and emotional status pursuant to Section 56320 of the Education Code. Based on the results of assessments completed pursuant to Section 56320, an IEP team may refer a pupil who has been determined to be an individual with exceptional needs or is suspected of being an individual with exceptional needs as defined in Section 56026 of the Education Code and who is suspected of needing mental health services to a community mental health service when a pupil meets all of the criteria in paragraphs (1) through (5) below. Referral packages shall include all documentation required in subsection (b) and shall be provided ~~immediately~~ within five (5) working days of the LEA's receipt of parental consent for the referral of the pupil to the community mental health service.
- (1) The pupil has been assessed by school personnel in accordance with Article 2, commencing with Section 56320, of Chapter 4 of Part 30 of the Education Code.
- (2) The LEA has obtained written parental consent for the referral of the pupil to the community mental health service, for the release and exchange of all relevant information between the LEA and the community mental health service, and for the observation of the pupil by qualified mental health professionals in an educational setting.
- (3) The pupil has emotional or behavioral characteristics that:
- (A) Are observed by qualified educational staff as defined in subsection (x) of Section 3001 of Title 5 of the California Code of Regulations in educational and other settings, as appropriate.
- (B) Impede the pupil from benefiting from educational services.
- (C) Are significant, as indicated by their rate of occurrence and intensity.
- (D) Are associated with a condition that cannot be described solely as a social maladjustment ~~or as demonstrated by deliberate noncompliance with accepted social rules, a demonstrated ability to control unacceptable behavior and the absence of a treatable mental disorder.~~
- (E) Are associated with a condition that cannot be described solely as a temporary adjustment problem and that cannot be resolved with short-term less than three months of school counseling.

- (4) As determined using educational assessments, the pupil's functioning, including cognitive functioning, is at a level sufficient to enable the pupil to benefit from mental health services.
 - (5) The LEA has provided counseling, psychological, or guidance services to the pupil pursuant to Section 56363 of the Education Code, and the IEP team has determined that the services do not meet the pupil's educational needs; or, in cases where these services are clearly inappropriate, the IEP team has documented which of these services were considered and why they were determined to be inappropriate.
- (b) When referring a pupil to a community mental health service in accordance with subsection (a), the LEA or the IEP team shall provide the following documentation:
 - (1) Copies of the current IEP, all current assessment reports completed by school personnel in all areas of suspected disabilities pursuant to Article 2, commencing with Section 56320, of Chapter 4 of Part 30 of the Education Code, and other relevant information, including reports completed by other agencies.
 - (2) A copy of the parent's consent obtained as provided in subsection (a)(2).
 - (3) A summary of the emotional or behavioral characteristics of the pupil, including documentation that the pupil meets the criteria in paragraphs (3) and (4) of subsection (a).
 - (4) A description of the school counseling, psychological, and guidance services, and other interventions that have been provided to the pupil, including the initiation, duration and frequency of the services, or an explanation of why a service was considered for the pupil and determined to be inappropriate.
- (c) Based on preliminary results of assessments performed pursuant to Section 56320 of the Education Code, a LEA may refer a pupil who has been determined to be or is suspected of being an individual with exceptional needs, and is suspected of needing mental health services, to a community mental health service when a pupil meets the criteria in paragraphs (1) and (2) below. Referral packages shall include all documentation required in subsection (d) and shall be provided ~~immediately~~ within one (1) working day to the community mental health service.
 - (1) The pupil meets the criteria in paragraphs (2) through (4) of subsection (a).
 - (2) School counseling, psychological and guidance services are clearly inappropriate in meeting the pupil's needs.
- (d) When referring a pupil to a community mental health service in accordance with subsection (c), the LEA shall provide the following documentation:

- (1) Results of preliminary assessments, including those conducted by school personnel in accordance with Article 2, commencing with Section 56320, of Chapter 4 of Part 30 of the Education Code, to the extent they are available, and other relevant information, including reports completed by other agencies.
 - (2) A copy of the parent's consent obtained as provided in paragraph (2) of subsection (a).
 - (3) A summary of the emotional or behavioral characteristics of the pupil, including documentation that the pupil meets the criteria in paragraphs (3) and (4) of subsection (b).
 - (4) An explanation as to why school counseling, psychological and guidance services are clearly inappropriate in meeting the pupil's needs.
- (e) The procedures set forth in this chapter are not designed for use in responding to psychiatric emergencies or other situations requiring immediate response. In these situations, a parent may seek services from other public programs or private providers, as appropriate. Nothing in this subsection changes the identification and referral responsibilities imposed on local education agencies under Article 1, commencing with Section 56300, of Chapter 4 of Part 30 of the Education Code.
- (f) The community mental health service shall accept all referrals for mental health assessments made pursuant to subsections (a) and (c).
- (g) If the community mental health service receives a referral for a pupil with a different county of origin, the community mental health service receiving the referral shall forward the referral ~~immediately~~ within one (1) working day to the county of origin, which shall have programmatic and fiscal responsibility for providing or arranging for provision of necessary services. The procedures described in this subsection shall not delay or impede the referral and assessment process.

Authority Cited: Section 7587, Government Code.

Reference: Sections 56325 and 56363, Education Code. Sections 3051.9, 3051.10, and 3051.11, Title 5, California Code of Regulations.

Adopt Section 60045 to read:

60045. ASSESSMENT TO DETERMINE THE NEED FOR
MENTAL HEALTH SERVICES

60045.

- (a) Within ~~15~~ five (5) days of receipt of a referral, pursuant to subsections (a), (c) or (g) of Section 60040, the community mental health service shall review the recommendation for a mental health assessment and determine if such an assessment is necessary.
 - (1) If no mental health assessment is determined to be necessary, or the referral is inappropriate, the reasons shall be documented by the community mental health service. The community mental health service shall ~~immediately~~ notify the parent and the LEA of this determination within one (1) working day.
 - (2) If the referral is determined to be incomplete, the reasons shall be documented by the community mental health service. The community mental health service shall ~~immediately~~ notify the LEA within one (1) working day and return the referral.
- (b) If a mental health assessment is determined to be necessary, the community mental health service shall notify the LEA, develop a mental health assessment plan, and provide the plan and a consent form to the parent, within 15 days of receiving the referral from the LEA, pursuant to Section 56321 of the Education Code. The assessment plan shall include, but is not limited to, the review of the pupil's school records and assessment reports and observation of the pupil in the educational setting, when appropriate.
- (c) The community mental health service shall report back to the referring LEA or IEP team within 30 days from the date of the receipt of the referral by the community mental health service if no parental consent for a mental health assessment has been obtained.
- (d) Upon receipt of the parent's written consent for a mental health assessment, the community mental health service shall ~~immediately~~ contact the LEA within one (1) working day to establish the date of the IEP meeting. The LEA shall schedule the IEP meeting to be held within fifty (50) days from the receipt of the written consent pursuant to Section 56344 of the Education Code.
- (e) ~~When the mental health assessment cannot be completed within the required fifty (50) day time limit specified in Section 56344 of the Education Code, the local mental health service shall, no later than twenty-five (25) days prior to the IEP team meeting, notify the LEA and the parent. In no event may the time lines be extended beyond fifty (50) days without written consent of the parent.~~
The mental health assessment shall be completed in sufficient time to ensure that an IEP meeting is held within fifty (50) days from the receipt of the written parental consent for the assessment. This time line may only be extended upon the written request of the parent.
- (f) The community mental health service assessor shall review and discuss their mental health service

recommendation with the parent and appropriate members of the IEP team. The assessor shall also make a copy of the mental health service assessment report available to the parent at least two days prior to the IEP team meeting.

- (1) If the parent disagrees with the assessor's mental health service recommendation, the community mental health service shall provide the parent with written notification that they may require the assessor to attend the IEP team meeting to discuss the recommendation. The assessor shall attend the meeting if requested to do so by the parent.
 - (2) Following the discussion and review of the community mental health service assessor's recommendation, it shall be the recommendation of the IEP team members attending on behalf of the LEA.
- (g) The community mental health service shall provide to the IEP team a written assessment report in accordance with Education Code Section 56327.
- (h) For pupils with disabilities receiving services under this Chapter, the community mental health service of the county of origin shall be responsible for preparing statutorily required IEP reassessments in compliance with the requirements of this Section.

Authority Cited: Section 7587, Government Code.

Reference: Sections 56321, 56327 and 56344, Education Code.

Adopt Section 60050 to read:

60050. INDIVIDUALIZED EDUCATION PROGRAM
FOR MENTAL HEALTH SERVICES

60050.

- (a) When it is determined, in accordance with Section 7572 of the Government Code, that a mental health service is necessary for a pupil with a disability to benefit from special education, the following documentation shall be included in the mental health portion of the IEP:
- (1) A description of the present levels of social and emotional performance;
 - (2) The goals and objectives of the mental health services with objective criteria and evaluation procedures to determine whether they are being achieved;
 - (3) A description of the types of mental health services to be provided; and
 - (4) The initiation, duration and frequency of the mental health services.
 - (5) Parental approval for the provision of mental health services. This signed consent for treatment is in addition to the signed IEP.
- (b) ~~Upon~~ When completion or termination of IEP specified mental health services is mutually agreed upon by the parent and the community mental health service, or when the pupil is no longer participating in treatment, the community mental health service shall notify the parent and the LEA which shall schedule an IEP team meeting to discuss and document this proposed change if it is acceptable to the IEP team.

Authority Cited: Section 7587, Government Code.

Reference: Section 56345, Education Code. Section 300.3467, Title 34, Code of Federal Regulations.

Adopt Section 60055 to read:

60055. TRANSFERS AND INTERIM PLACEMENTS

60055.

- (a) Whenever a pupil who has been receiving mental health services, pursuant to an IEP, transfers into a school district from a school district in another county, the responsible LEA administrator or IEP team shall refer the pupil to the local community mental health service to determine appropriate mental health services.
- (b) The local mental health director or designee shall ensure that the pupil is provided interim mental health services, as specified in the existing IEP, pursuant to Section 56325 of the Education Code, for a period not to exceed thirty (30) days, unless the parent agrees otherwise.
- (c) An IEP team, which shall include an authorized representative of the responsible community mental health service, shall be convened by the LEA to review the interim services and make a determination of services within thirty (30) days of the pupil's transfer.

Authority Cited: Section 7587, Government Code.

Reference: Section 56325, Education Code.

Adopt Article 3 and Section 60100 to read:

Article 3. Residential Placement

60100. LEA IDENTIFICATION AND PLACEMENT OF A PUPIL 60100.
~~WITH A DISABILITY WHO IS~~ SERIOUSLY EMOTIONALLY
DISTURBED PUPIL

- (a) This article shall apply only to a pupil with a disability who is seriously emotionally disturbed pursuant to paragraph (i) of Section 3030 of Title 5 of the California Code of Regulations.
- (b) When an IEP team ~~is considering a recommendation for~~ member recommends a residential placement for a pupil who meets the educational eligibility criteria specified in paragraph (94) of subsection (b) of Section 300.7 of Title 34 of the Code of Federal Regulations, the IEP team shall proceed in the following manner:
 - (1) ~~The team meeting shall continue only as an expanded IEP team, pursuant to Section 7572.5 of the Government Code.~~ An expanded IEP team shall be convened within thirty (30) days with an authorized representative of the community mental health service.
 - (2) If any authorized representative ~~from the community mental health service~~ is not present, the IEP team meeting shall be adjourned and be reconvened within fifteen (15) calendar days as an expanded IEP team with an authorized representative from the community mental health service participating as a member of the IEP team pursuant to Section 7572.5 of the Government Code.
 - (3) If the community mental health service or the LEA determines that additional mental health assessments are needed, the LEA and the community mental health service shall proceed in accordance with Sections 60040 and 60045.
- (c) Prior to the determination that a residential placement is necessary for the pupil to receive special education and mental health services, the expanded IEP team shall consider less restrictive alternatives, such as providing a behavioral specialist and full-time behavioral aide in the classroom, home and other community environments, and/or parent training in the home and community environments. The IEP team shall document the alternatives to residential placement that were considered and the reasons why they were rejected. Such alternatives may include any combination of cooperatively developed educational and mental health services.

- (d) When the expanded IEP team recommends a residential placement, it shall document the pupil's educational and mental health treatment needs that support the recommendation for residential placement. This documentation shall identify the special education and related mental health services to be provided by a residential facility listed in Section 60025 that cannot be provided in a less restrictive environment pursuant to ~~Section 300.552 of Title 34 of the Code of Federal Regulations~~ Title 20, United States Code Section 1412(a)(5).
- (e) The community mental health service case manager, in consultation with the IEP team's administrative designee, shall identify a mutually satisfactory placement that is acceptable to the parent and addresses the pupil's educational and mental health needs in a manner that is cost-effective for both public agencies, subject to the requirements of state and federal special education law, including the requirement that the placement be appropriate and in the least restrictive environment.
- (f) The residential placement shall be in a facility listed in Section 60025 that is located within, or in the county adjacent to, the county of residence of the parents of the pupil with a disability, pursuant to paragraph (3) of subsection (a) of Section 300.552 of Title 34 of the Code of Federal Regulations. When no nearby placement alternative which is able to implement the IEP can be identified, this determination shall be documented, and the community mental health service case manager shall seek an appropriate placement which is as close to the parents' home as possible.
- (g) Rates for care and supervision shall be established for a facility listed in Section 60025 in accordance with Section 18350 of the Welfare and Institutions Code.
- (h) Residential placements for a pupil with a disability who is seriously emotionally disturbed may be made out of California only when no in-state facility can meet the pupil's needs and only when the requirements of subsections (d) and (e) have been met. Out-of-state placements shall be made only in residential programs that meet the requirements of Welfare and Institutions Code Sections 11460 (c) (2) through (c)(3). For educational purposes, the pupil shall receive services from a privately operated non-medical, non-detention school certified by the California Department of Education.
- (i) When the expanded IEP team determines that it is necessary to place a pupil with a disability who is seriously emotionally disturbed in residential care, the community mental health service shall ensure that:
 - (1) ~~The initiation, duration and frequency of mental health services are specified in the IEP.~~ The mental health services are specified in the IEP in accordance with Title 20, United States Code Section 1414(d)(1)(A)(vi).

- (2) Mental health services are provided by qualified mental health professionals.
- (j) When the expanded IEP team determines that it is necessary to place a pupil with a disability who is seriously emotionally disturbed in a facility listed in Section 60025, the expanded IEP team shall ensure that placement is in accordance with admission criteria of the facility.

Authority Cited: Section 7587, Government Code. Sections 10553, 10554, 11462(i) and (j) and 11466.1, Welfare and Institutions Code.

Reference: Sections 7576(a) and 7579, Government Code. Sections 11460(c)(2) through (c)(3), 18350, and 18356, Welfare and Institutions Code. Sections 1412 and 1414, Title 20, United States Code. Sections 300.7 and 300.552, Title 34, Code of Federal Regulations.

Adopt Section 60110 to read:

60110. CASE MANAGEMENT FOR A PUPIL WITH A DISABILITY WHO IS SERIOUSLY EMOTIONALLY DISTURBED AND IS IN A RESIDENTIAL PLACEMENT 60110.

- (a) Upon notification of the expanded IEP team's decision to place a pupil with a disability who is seriously emotionally disturbed into residential care, the local mental health director or designee shall immediately designate a case manager who will perform case management services as described in subsections (b) and (c).
- (b) The case manager shall coordinate the residential placement plan of a pupil with a disability who is seriously emotionally disturbed as soon as possible after the decision has been made to place the pupil in a residential placement, pursuant to Section 300.342 of Title 34 of the Code of Federal Regulations.
 - (1) The residential placement plan shall include provisions, as determined in the pupil's IEP, for the care, supervision, mental health treatment, psychotropic medication, if required, and education of a pupil with a disability who is seriously emotionally disturbed.
 - (2) The LEA shall be responsible for providing or arranging for the special education and non-mental health related services needed by the pupil.
 - (3) When the expanded IEP team determines that it is necessary to place a pupil with a disability who is seriously emotionally disturbed in a community treatment facility, the casemanager shall ensure that placement is in accordance with admission and, continuing stay, and discharge criteria of the community treatment facility.
- (c) Case management shall include, but not be limited to, the following responsibilities:
 - (1) To convene a meeting with the parents and representatives of public and private agencies, including educational staff, and to identify an appropriate residential placement from those defined in Section 60025 and excluding local inpatient, private psychiatric, and state hospital facilities.
 - (2) To identify, in consultation with the IEP team's administrative designee, a mutually satisfactory placement that is acceptable to the parent and addresses the pupil's educational and mental health needs in a manner that is cost-effective for both public agencies, subject to the requirements of state and federal special education law, including the requirement that the placement be appropriate and in the least restrictive environment.

- (3) To complete the payment authorization in order to initiate payments for residential placement in accordance with Section 18351 of the Welfare and Institutions Code.
- (4) To assure the completion of the community mental health service and LEA financial paperwork or contracts for the residential placement of a pupil with a disability who is seriously emotionally disturbed.
- (5) To develop the plan and assist the family with the pupil's social and emotional transition from home to the residential placement and the subsequent return to the home.
- (6) To facilitate the enrollment in the residential placement of a pupil with a disability who is seriously emotionally disturbed.
- (7) To notify the LEA that the placement has been arranged and to coordinate the transportation of the pupil to the facility if needed.
- (8) To conduct quarterly face-to-face contacts at the residential facility with a pupil with a disability who is seriously emotionally disturbed to monitor the level of care and supervision and the provision of the mental health services as required by the IEP. In addition, for children placed in a community treatment facility, an evaluation shall be made within every 90 days of the residential placement of the pupil to determine if the pupil meets the continuing stay criteria as defined in Welfare and Institutions Code Section 4094 and implementing mental health regulations.
- (9) To notify the parent and the LEA or designee if there is a discrepancy between the level of care, supervision, or provision of mental health services and the requirements of the IEP.
- (10) To schedule and attend the next expanded IEP team meeting with the expanded IEP team's administrative designee within six months of the residential placement of a pupil with a disability who is seriously emotionally disturbed and every six months thereafter as long as the pupil remains in residential placement.
- (11) To facilitate placement authorization from the county's interagency placement committee pursuant to Section 4094.5(e)(1) of the Welfare and Institutions Code, by presenting the case of a pupil with a disability who is seriously emotionally disturbed prior to placement in a community treatment facility.

Authority Cited: Section 7587, Government Code.

Reference: Section 4094, Welfare and Institutions Code. Section 300.342, Title 34, Code of Federal Regulations. Section 3061, Title 5, California Code of Regulations.

Adopt Article 4 and Section 60200 to read:

Article 4. Financial Provision for Mental Health Services,
Special Education and Residential Placement

60200. FINANCIAL RESPONSIBILITIES

60200.

- (a) The purpose of this article is to establish conditions and limitations for reimbursement for the provision of special education instruction, designated instruction and services, related services, and residential placement described in Articles 2 and 3 of this chapter.
- (b) Special education instruction, designated instruction and services, related services, and residential placements are to be provided at no cost to the parent.
- (c) The community mental health service of the county of origin shall be responsible for the provision of assessments and mental health services included in an IEP in accordance with Sections 60045, 60050, and 60100. Mental health services shall be provided either directly by the community mental health service or by contractors. All services shall be delivered in accordance with Section 523 of Title 9 of the California Code of Regulations.
 - (1) The host county shall be responsible for making its provider network available and shall provide the county of origin a list of appropriate providers used by the host county's managed care plan who are currently available to take new referrals. Counties of origin shall negotiate with host counties to obtain access to limited resources, such as intensive day treatment and day rehabilitation.
 - (2) The county of origin may also contract directly with providers at a negotiated rate.
- (d) The LEA shall be financially responsible for:
 - (1) The transportation of a pupil with a disability to and from the mental health services specified on the pupil's IEP and in accordance with ~~paragraph (13) of subsection (b)~~ of Section 300.13 of Title 34 of the Code of Federal Regulations;
 - (2) The transportation of a pupil to and from the residential placement as specified on the IEP and in accordance with Section 56221 of the Education Code; and
 - (3) The special education instruction, non-mental health related services, and designated instruction and services agreed upon in the nonpublic, nonsectarian school services contract or a public program arranged with another SELPA or LEA.

- (e) The community mental health service shall be responsible for authorizing payment to the facilities listed in Section 60025 based upon rates established by the Department of Social Services in accordance with Sections 18350 through 18356 of the Welfare and Institutions Code.
- (f) Upon receipt of the authorization from the community mental health service, pursuant to subsection (e), including documentation that the pupil is eligible for residential placement as a seriously emotionally disturbed pupil, the county welfare department shall issue payments in accordance with Section 18351 of the Welfare and Institutions Code to providers of residential placement.

Authority Cited: Section 7587, Government Code.

Reference: Sections 18350 through 18356, Welfare and Institutions Code. Section 300.13, Title 34, Code of Federal Regulations.

Adopt Article 5 Section 60300 to read:

Article 5. Occupational Therapy and Physical Therapy

60300. CALIFORNIA CHILDREN'S SERVICES (CCS) MEDICAL
THERAPY PROGRAM DEFINITIONS

60300.

- (a) "Assessment for medically necessary occupational therapy and physical therapy" means the comprehensive evaluation of the physical and functional status of a pupil who has a medical therapy program eligible condition.
- (b) "Assessment plan" for the CCS Medical Therapy Program for pupils with a disability who have an IEP means a written statement describing proposed:
 - (1) Procedures necessary for determination of medical eligibility for the CCS medical therapy program; or
 - (2) Procedures necessary for the redetermination of need for medically necessary physical therapy or occupational therapy for a pupil known to be eligible for the CCS medical therapy program.
- (c) "Assessment report for therapy" means a written document of the results of a pupil's assessment for medically necessary occupational therapy or physical therapy.
- (d) "CCS Panel" means that group of physicians and other medical providers of services who have applied to and been approved by CCS.
- (e) "Dependent county agency" means the CCS administrative organization in a county that administers the CCS program jointly with the State pursuant to Sections 123850 and 123905 of the Health and Safety Code.
- (f) "Documented physical deficit" refers to a pupil's motor dysfunction recorded on the referral for special education and related services by the ~~Department of~~ Local Education Agency and documented in the pupil's CCS medical record.
- (g) "Independent county agency" means the CCS administrative organization in a county that administers the CCS program independently pursuant to Section 123850 of the Health and Safety Code.
- (h) "Medical therapy conference" means a team meeting held in the medical therapy unit where medical case management for the pupil's medical therapy program eligible condition is provided by the medical therapy conference team as described in (i).

- (i) “Medical therapy conference team” means a team composed of the pupil, parent, physician and occupational therapist and/or physical therapist, or both. The team may include, with the consent of the pupil’s parent(s), an education representative who is present for the purpose of coordination with medical services.
- (j) “Medical therapy program eligible condition” are those diagnoses that make a pupil eligible for medical therapy services and include the following diagnosed neuromuscular, musculoskeletal, or muscular diseases:
 - (1) Cerebral palsy, a nonprogressive motor disorder with onset in early childhood resulting from a lesion in the brain and manifested by the presence of one or more of the following findings:
 - (A) Rigidity or spasticity;
 - (B) Hypotonia, with normal or increased deep tendon reflexes and exaggeration or persistence of primitive reflexes beyond the normal age;
 - (C) Involuntary movements, athetoid, choreoid, or dystonic; or
 - (D) Ataxia, incoordination of voluntary movement, dysdiadochokinesia, intention tremor, reeling or shaking of trunk and head, staggering or stumbling, and broad-based gait.
 - (2) Other neuromuscular diseases that produce muscle weakness and atrophy, such as poliomyelitis, myasthenias, muscular dystrophies;
 - (3) Chronic musculoskeletal diseases, deformities or injuries, such as osteogenesis imperfecta, arthrogryposis, rheumatoid arthritis, amputation, and contractures resulting from burns.
- (k) “Medical therapy services” are occupational therapy or physical therapy services that require a medical prescription and are determined to be medically necessary by CCS. Medical therapy services include:
 - (1) “Treatment”, an intervention to individuals or groups of pupils in which there are occupational therapy or physical therapy services as per California Business and Professions Code, Chapter 5.7, Article 2, Section 2620.
 - (2) “Consultation”, an occupational therapy or physical therapy activity that provides information and instruction to parents, care givers or LEA staff, and other medical services providers;

- (3) “Monitoring”, a regularly scheduled therapy activity in which the therapist reevaluates the pupil’s physical status, reviews those activities in the therapy plan which are provided by parents, care givers or LEA staff, and updates the therapy plan as necessary; and
- (4) Medical therapy conference as defined in (h).
- (l) “Medical therapy unit” means a CCS and LEA approved public school location where medical therapy services, including comprehensive evaluations and medical therapy conferences, are provided by CCS.
- (m) “Medical therapy unit satellite” means a CCS and LEA approved extension of an established medical therapy unit where medical therapy services may be provided by CCS. Comprehensive evaluations and medical therapy conferences are not a part of medical therapy unit satellite services.
- (n) “Medically necessary occupational therapy or physical therapy services” are those services directed at achieving or preventing further loss of functional skills, or reducing the incidence and severity of physical disability.
- (o) “Necessary equipment” means that equipment, provided by the LEA, which is required by the medical therapy unit staff to provide medically necessary occupational therapy and/or physical therapy services to a pupil with a medical therapy program eligible condition.
- (p) “Necessary space” means the facilities, which are provided by the LEA for a medical therapy unit or a medical therapy unit satellite, and enable the medical therapy unit staff to provide medically necessary therapy services to a pupil with a medical therapy program eligible condition.
- (q) “Occupational therapy and physical therapy” mean services provided by or under the supervision of occupational therapists and physical therapists pursuant to California Code of Regulations, Title 5, Section 3051.6(b).
- (r) “Therapy plan” means the written recommendations for medically necessary occupational therapy or physical therapy services based on the results of the therapy assessment and evaluation and is to be included in the individualized education program or individualized family service plan.

Authority Cited: Section 7587, Government Code.

Reference: Section 7575, Government Code. Sections 123825, 123850, 123875, and 123905, Health and Safety Code. Sections 3001(x) and 3051.6(b) of Title 5, California Code of Regulations. Section 2620 of Chapter 5.7, Article 2, California Business and Professions Code.

Adopt Section 60310 to read:

60310. LOCAL INTERAGENCY AGREEMENTS BETWEEN CCS
AND EDUCATION AGENCIES

60310.

- (a) In order to facilitate the provision of services described in subdivisions (a), (b), (d), and (e) of Section 7572 of the Government Code and subdivisions (a), (b), and (d) of Section 7575 of the Government Code, each independent county agency and each authorized dependent county agency of CCS shall appoint a liaison for the county agency of CCS. The county Superintendent of Schools or SELPA director shall ensure the designation of a liaison for each SELPA in each local plan.
- (b) In the event of multi-SELPA counties or multi-county SELPAs, the liaisons representing education and CCS shall develop a process for interagency decision making that results in a local interagency agreement.
- (c) Each independent county agency and each dependent county agency of CCS and the county Superintendent of Schools or SELPA director shall ensure the development and implementation of a local interagency agreement in order to facilitate the provision of medically necessary occupational therapy and physical therapy which shall include at a minimum a delineation of the process for:
 - (1) Identifying a contact person within each LEA in the SELPA and within each CCS county agency;
 - (2) Referring pupils, birth to twenty-one years of age, who may have or are suspected of having a neuromuscular, musculoskeletal, or other physical impairment who may require medically-necessary occupational therapy or physical therapy.
 - (3) Exchanging between the agencies the educational and medical information concerning the pupil with a disability upon receiving the parent's written, informed consent obtained in accordance with Section 300.500 of Title 34 of the Code of Federal Regulations.
 - (4) Giving 10 days notice to the county CCS agency of all IEP team meetings for pupils served by CCS medical therapy program;
 - (5) Giving 10 days notice to the LEA and the parent of an impending change in the CCS medical therapy program services which may necessitate a change in the IEP;
 - (6) Describing the methods of participation of CCS in the IEP team meetings pursuant to Government Code Section 7572(e);
 - (7) Developing or amending the therapy services indicated in the pupil's IEP in accordance

- with Section 56341 of the Education Code;
- (8) Transporting pupils with disabilities to receive medically-necessary occupational therapy or physical therapy services at the medical therapy unit or medical therapy unit satellite;
 - (9) Determining the need for and location of medical therapy units or medical therapy unit satellites, or other off-site facilities authorized by state CCS and the California Department of Education;
 - (10) Approving the utilization of designated therapy space when not in use by CCS staff.
 - (11) Planning for joint staff development activities;
 - (12) Resolving conflicts between the county CCS agency and the LEA; and
 - (13) Annually reviewing the local interagency agreement and modifying it as necessary.
- (d) The local interagency agreement shall also include:
- (1) The name of the LEA responsible for the provision, maintenance, and operation of the facilities housing the medical therapy unit or medical therapy unit satellite during the CCS work day on a twelve-month basis;
 - (2) The name of the LEA having the fiscal/administrative responsibility for the provision and maintenance of necessary space, equipment, and supplies; and
 - (3) The process for change in fiscal/administrative responsibility for the provision and maintenance of necessary space, equipment, and supplies.

Authority Cited: Section 7587, Government Code.

Reference: Sections 7572 and 7575, Government Code. Section 123875, Health and Safety Code. Section 300.500 of Title 34, Code of Federal Regulations. Section 56341, Education Code.

Adopt Section 60320 to read:

60320. REFERRAL AND ASSESSMENT

60320.

- (a) Pupils referred to the LEA for assessment of fine and gross motor or physical skills shall be considered for assessment either by the LEA or by CCS depending on the information contained in the referral and the pupil's documented physical deficit pursuant to Section 7572 of the Government Code.
- (b) If the LEA determines that a referral to CCS is not appropriate, the LEA shall propose an assessment plan to the parents.
- (c) If the pupil is referred to CCS by the LEA, the referral must be accompanied by:
 - (1) The pupil's medical diagnosis;
 - (2) Current medical records;
 - (3) Parental permission for exchange of information between agencies; and
 - (4) Application for the CCS program if the pupil is unknown to CCS.
- (d) If medical eligibility cannot be determined by medical records submitted, CCS shall:
 - (1) Notify the parent and LEA within 15 days of the receipt of the referral;
 - (2) Seek additional medical information; and
 - (3) If the additional medical information sought in subdivision (2) does not establish medical eligibility, and if the pupil's diagnosis is cerebral palsy, then refer the pupil to a CCS panel physician for a neurological examination.
- (e) If CCS determines that the pupil is ineligible because the pupil's medical condition is not a medical therapy program eligible condition, CCS shall notify the parent and LEA within five days of the determination of eligibility status for the medical therapy program.
- (f) If CCS determines the pupil has a medical therapy program eligible condition, CCS shall propose a therapy assessment to the parents and obtain written consent for the assessment of the need for medically-necessary occupational therapy or physical therapy. This assessment for therapy shall be implemented not more than 15 days following the determination of whether the pupil has a medical therapy program eligible condition.

- (g) Upon receipt of the parent's written consent for an assessment, the CCS agency shall send a copy of the parent's consent to the LEA which shall establish the date of the IEP team meeting. The LEA shall schedule an IEP team meeting to be held within 50 days from the date parental consent is received by CCS.
- (h) When CCS determines a pupil needs medically necessary occupational therapy or physical therapy, CCS shall provide the LEA and the parent a copy of the completed assessment report for therapy or a proposed therapy plan prior to the scheduled IEP meeting.
- (i) When CCS determines a pupil does not need medically-necessary physical therapy or occupational therapy, the LEA and the parent shall be provided with the completed assessment report for therapy and a statement which delineates the basis for the determination.

Authority Cited: Section 7587, Government Code.

Reference: Sections 7572, 7575(a), Government Code. Sections 123830, 123860, and 123875, Health and Safety Code. Section 300.532 of Title 34, Code of Federal Regulations. Sections 56320, 56321, 56329, 56344, Education Code. Section 3051.6 of Title 5, California Code of Regulations.

Adopt Section 60323 to read:

60323. MEDICAL THERAPY PROGRAM RESPONSIBILITIES

60323.

- (a) The Medical Therapy Conference shall assess the pupil's need for occupational therapy and physical therapy. The determination of medical necessity shall be based on the pupil's physical and functional status.
- (b) The Medical Therapy Conference shall review the therapy plan to ensure the inclusion of measurable functional goals and objectives ~~and activities~~ for services to be performed by occupational therapists and physical therapists, as well as activities that support the goals and objectives to be performed by parents or LEA staff to maintain or prevent loss of function.
- (c) The Medical Therapy Conference team shall be responsible for approval of therapy plans and either the Medical Therapy Conference physician shall write the prescription for those services provided to pupils under his supervision or review those prescriptions submitted by the pupil's private physician for compliance with (a) and (b) of this section.
- (d) Medically necessary therapy services are provided at a level dependent on the pupil's physical and functional status as determined and prescribed by the CCS paneled physician of the specialty appropriate for treating the pupil's Medical Therapy Program eligible condition and who has been authorized by the program to supervise the pupil's Medical Therapy Program eligible condition.
- (e) The medical necessity of occupational therapy or physical therapy services delivered to pupils not participating in a Medical Therapy Conference because there is not a Medical Therapy Conference in their geographical area shall be determined by the state program medical consultant or CCS designee.
- (f) Medical therapy services must be provided by or under the supervision of a registered occupational therapist or licensed physical therapist in accordance with CCS regulations and requirements. This therapy does not include fine and gross motor activities which can be provided by qualified personnel, pursuant to California Code of Regulations, Title 5, Section 2620.

Authority Cited: Section 7587, Government Code.

Reference: Section 7575, Government Code. Sections 123825, 123850, and 123905, Health and Safety Code. Section 3001(x) of Title 5, California Code of Regulations.

Adopt Section 60325 to read:

60325. INDIVIDUALIZED EDUCATION PROGRAM FOR
THERAPY SERVICES

60325.

- (a) CCS shall provide a copy of the assessment and evaluation report and the proposed therapy plan to the IEP team which shall include:
 - (1) A statement of the pupil's present level of functional performance;
 - (2) The proposed functional goals to achieve a measurable change in function or recommendations for services to prevent loss of present function and documentation of progress to date;
 - (3) The specific related services required by the pupil, including the type of physical therapy or occupational therapy intervention, treatment, consultation, or monitoring;
 - (4) The proposed initiation, frequency, and duration of the services to be provided by the medical therapy program; and
 - (5) The proposed date of medical evaluation.
- (b) CCS shall participate in the IEP team as set forth in Government Code Section 7572(e).
- (c) CCS shall notify the IEP team and parent in writing within 5 days of a decision to increase, decrease, change the type of intervention, or discontinue services for a pupil receiving medical therapy services. If the parent is present at time the decision is made, he or she will also be verbally informed of the decision.
- (d) The IEP team shall be convened by the LEA pursuant to subsection (c) of this section or when there is an annual or triennial review or a review requested by the parent or other authorized persons.
- (e) The LEA shall convene the IEP team to review all assessments, request additional assessments if needed, determine whether fine or gross motor or physical needs exist, and consider designated instruction and services or related services that are necessary to enable the pupil to benefit from the special education program.
- (f) When the IEP team determines that occupational therapy or physical therapy services are necessary for the pupil to benefit from the special education program, goals and objectives relating to the activities identified in the assessment reports shall be written into the IEP and provided by personnel qualified pursuant to the California Code of Regulations, Title 5, Section 3051.6.

Authority Cited: Section 7587, Government Code.

Reference: Sections 7572(e) and 7575, Government Code. Section 56345, Education Code. Section

3051.6 of Title 5, California Code of Regulations.

Adopt Section 60330 to read:

60330. SPACE AND EQUIPMENT FOR OCCUPATIONAL THERAPY AND PHYSICAL THERAPY 60330.

- (a) The medical therapy unit shall have necessary space and equipment to accommodate the following functions: administration, medical therapy conference, comprehensive evaluation, private treatment, activities of daily living, storage, and modification of equipment. The specific space and equipment requirements are dependent upon local needs as determined by joint agreement of state CCS, county CCS, and LEAs, and approved by both the California Department of Education and the State Department of Health Services.
- (b) The space and equipment of the medical therapy unit and medical therapy unit satellites shall be for the exclusive use of the CCS' staff when they are on site. The special education administration of the LEA in which the units are located shall coordinate with the CCS' staff for other use of the space and equipment when the CCS' staff is not present.
- (c) All new construction, relocation, remodeling or modification of medical therapy units and medical therapy unit satellites shall be mutually planned and approved by the California Department of Education and the State Department of Health Services.

Authority Cited: Section 7587, Government Code.

Reference: Section 7575(d), Government Code.

Adopt Article 6 and Section 60400 to read:

Article 6. Home Health Aide

60400. SPECIALIZED HOME HEALTH AIDE

60400.

- (a) The Department of Health Services shall be responsible for providing the services of a home health aide when the local education agency (LEA) considers a less restrictive placement from home to school for a pupil for whom both of the following conditions exist:
 - (1) The California Medical Assistance Program (Medi-Cal) provides life-supporting medical services via a home health agency during the time the pupil would be in school or traveling between school and home.
 - (2) The medical services provided require that the pupil receive the personal assistance or attention of a nurse, home health aide, parent or guardian, or some other specially trained adult in order to be effectively delivered.
- (b) For purposes of this section, “life supporting medical services” means services to a pupil with a disability that is dependent on a medical technology or device that compensates for loss of the normal use of vital bodily function and who requires daily skilled nursing care to divert further disability or death.
- (c) The department shall determine the appropriate level of care-giver, based on medical necessity, to provide the services.

Authority Cited: Section 7587, Government Code.

Reference: Section 7575(e), Government Code. Section 51337 of Title 22, California Code of Regulations.

Adopt Article 7 and Section 60505 to read:

Article 7. Exchange of Information Between Education and Social Services

60505. COMMUNITY CARE FACILITIES

60505.

- (a) The Department of Social Services shall biannually provide the Superintendent of Public Instruction a current rates list of group homes and foster family agencies.
- (b) The Superintendent of Public Instruction shall biannually provide each county office of education a current list of licensed children's institutions pursuant to Section 56156 of the Education Code.
- (c) The county superintendent of schools, in accordance with Section 56156(d) of the Education Code, shall biannually provide the SELPA director a current list of the licensed children's institutions within the county.
- (d) The county office of education shall notify the director of each licensed children's institution of the appropriate person to contact regarding pupils with disabilities.
- (e) The SELPA director and the administrator of the LEA in which a group home or small family home is located shall provide the facility licensee the following information:
 - (1) The types and locations of public and state certified nonpublic, nonsectarian special education programs available within the SELPA; and
 - (2) The ability of the LEAs within the SELPA to absorb, expand, or to open new programs to meet the needs of the pupil population given the limitations of instructional personnel service units, available school facilities, funds, and staff.

Authority Cited: Section 7587, Government Code.

Reference: Section 7580, Government Code. Section 56156, Education Code.

Adopt Section 60510 to read:

60510. PRIOR NOTIFICATION

60510.

- (a) The court, regional center for the developmentally disabled, or public agency other than an educational agency shall notify the SELPA director, in writing or by telephone, prior to placing a pupil with a disability in a facility listed in Section 60025, and provide the following relevant information within ten days:
 - (1) The name of the last school attended, the contact person at that school, and the available educational records, including the current IEP.
 - (2) A copy or summary of the most recent psychological and medical records relevant to educational planning which are maintained by the agency.
 - (3) The name, address and telephone number of the parent who has the responsibility to represent the pupil in educational matters and to sign the IEP for special education, designated instruction and services and related services.
 - (4) The name, address and telephone number of the individual with designated responsibility to sign for consent for non-emergency medical services.
 - (5) The name of the administrator/designee, address, telephone number, and licensing status of a home under consideration for the pupil.
 - (6) A description of any special considerations related to transporting the pupil.
 - (7) Signed consents by the parent to exchange information relevant to IEP planning and individual program planning.
 - (8) When an agency makes an emergency placement to protect the physical, mental health or safety of a pupil, the agency shall furnish the SELPA director the required information within three days after the placement.
- (b) The SELPA director shall provide the placing agency with information about the availability of an appropriate special education program in the SELPA in which the home is located. This should occur within seven days of receipt of the notice of placement.
 - (1) If no appropriate special education placements exist within the SELPA, and the placement options are home instruction or in a public or nonpublic facility located in another SELPA, the placing agency should make every effort to place the pupil in another SELPA that has appropriate available residential and educational programs.

- (2) When the agency places a pupil in a licensed children's institution, as defined in this Chapter which has an on-grounds, certified, nonpublic, nonsectarian school, the pupil may attend the education program only if the SELPA's IEP team has determined that there is no appropriate public education program in the community and that the on-grounds program is appropriate and can implement the pupil's IEP.
- (3) When the IEP team makes the determination that the on-grounds program is appropriate, the LEA may then contract for educational services with the nonpublic school.

Authority Cited: Section 7587, Government Code.

Reference: Sections 7579 and 7580, Government Code. Section 56156, Education Code.

Adopt Article 8 and Section 60550 to read:

Article 8. Procedural Safeguards

60550. DUE PROCESS HEARINGS

60550.

- (a) Due process hearing procedures apply to the resolution of disagreements between a parent and a public agency regarding the proposal or refusal of a public agency to initiate or change the identification, assessment, educational placement, or the provision of special education and related services to the pupil.
- (b) Upon receiving a request for a due process hearing regarding the services provided or refused by another agency, the Superintendent of Public Instruction or designee shall send the state and local agency involved a copy of the hearing request, the name of the assigned mediator, and the date of the mediation meeting in accordance with Section 56503 of the Education Code. Nothing in this section shall preclude any party from waiving mediation.
- (c) If the mediator cannot resolve the issues, a state level hearing shall be conducted by a hearing officer in accordance with Section 56505 of the Education Code.
- (d) Each agency which is identified by the State Superintendent of Public Instruction or designee as a potentially responsible party and which has been involved in a proposal or refusal to provide a service is responsible for preparing documentation and providing testimony for the hearing officer.
- (e) The hearing officer shall be knowledgeable in the laws governing ~~special education and~~ administrative hearings. In addition, the hearing officer shall be knowledgeable about the provisions of Chapter 26.5 of the Government Code and applicable laws relevant to special education, community mental health and the California Children's Services Program. For hearings related to the provision of occupational and/or physical therapy, the hearing officer shall rule according to Government Code Section 7575(a) which specifies:
 - (1) "Notwithstanding any other provision of law, the State Department of Health Services, or any designated local agency administering the California Children Services, shall be responsible for the provision of medically necessary occupational therapy and physical therapy, as specified by Article 2, commencing with Section 123825 et. seq. of the Health and Safety Code, by reason of medical diagnosis and when contained in the pupil's IEP.
 - (2) Related services or designated instruction and services not deemed to be medically necessary by the State Department of Health Services, which the IEP team determines are necessary in order to assist a pupil to benefit from special education, shall be provided by the LEA by qualified personnel whose employment standards are covered by the Education Code and implementing regulations."

- (f) The hearing decision shall be the final administrative determination regarding the provision of educational and related services, and is binding on all parties.
- (g) Nothing in this article shall preclude the Department of Social Services from instituting, maintaining and concluding an administrative action to revoke or temporarily suspend a license pursuant to the Community Care Facilities Act, Health and Safety Code Section 1500 et. Seq.
- (h) Nothing in this article shall interfere with the discharge of a pupil placed in a community treatment facility who does not meet admission or continuing stay criteria and/or does meet discharge criteria as defined in Welfare and Institutions Code Section 4094 and implementing CCL regulations.
- (i) The California Department of Education is fiscally responsible for services provided by the mediator and the hearing officer in response to a parent's request for a due process hearing.

Authority Cited: Section 7587, Government Code.

Reference: Section 7586, Government Code. Sections 56501 through 56507, Education Code. Section 3082 of Title 5, California Code of Regulations. Section 4094, Welfare and Institutions Code. Corbett v. Regional Center of the East Bay Inc. and Linda McMahon, Director of the Department of Social Services, (1988) 9th Cir. 699 F. Supp. 230. In re Roger S. (1977) 19 Cal.3d. 921. In re Michael E. (1975) 15 Cal.3d. 183.

Adopt Section 60560 to read:

60560. COMPLIANCE COMPLAINTS

60560.

- (a) Allegations of failure by an LEA, Community Mental Health Service, or CCS to comply with these regulations, shall be resolved pursuant to Chapter 5.1, commencing with Section 4600, of Division 1 of Title 5 of the California Code of Regulations.

Authority Cited: Section 7587, Government Code.

Reference: Section 7585, Government Code. Section 4650, Title 5, California Code of Regulations.

Adopt Article 9 and Section 60600 to read:

Article 9. Interagency Dispute Resolution

60600. APPLICATION OF PROCEDURES

60600.

- (a) The procedures of this article apply as specified in Government Code 7585, when there is a dispute between or among the California Department of Education or a LEA or both and any agency included in Sections 7575 and 7576 of the Government Code over the provision of related services, when such services are contained in the IEP of a pupil with a disability. This article also applies when the responsibility for providing services, ordered by a hearing officer or agreed to through mediation pursuant to Sections 56503 and 56505 of the Education Code, is in dispute among or between the public agencies.
- (b) A dispute over the provision of services means a dispute over which agency is to deliver or to pay for the services when the service is contained in the IEP, mediation agreement, or due process hearing decision. The IEP of a pupil with a disability, and, when appropriate, a copy of the ~~decision rendered by the mediator or hearing officer~~, mediation agreement negotiated through the mediator or decision of the hearing officer shall accompany the request for a state interagency dispute resolution.
- (c) As specified in Section 7585 of the Government Code, when a service has been included in an IEP by an IEP team without the recommendation of the qualified professional in accordance with Section 7572 of the Government Code, the LEA shall be solely responsible for the provision of the service. In such circumstances, the dispute, if any, is between the parent and the LEA and shall be resolved pursuant to Title 5 of the California Code of Regulations.

Authority Cited: Section 7587, Government Code.

Reference: Sections 7572 and 7585, Government Code. Sections 56503 and 56505, Education Code.

Adopt Section 60610 to read:

60610. RESOLUTION PROCEDURE

60610.

- (a) Whenever notification is filed pursuant to subsection (a) of Section 7585 of the Government Code, the dispute procedures shall not interfere with a pupil with a disability's right to receive a free, appropriate public education.
 - (1) If one of the departments or local agencies specified in Sections 7575, 7576, 7577, and 7578 of the Government Code has been providing the service prior to notification of the failure to provide a related service or designated instruction and service, that department or local agency shall pay for, or provide, at its discretion, the service until the dispute resolution proceedings are completed.
 - (2) If no department or local agency specified in this section has provided the service prior to the notification of the dispute, the State Superintendent of Public Instruction shall ensure that the LEA provides the service in accordance with the IEP, until the dispute resolution proceedings are completed.
 - (3) Arrangements, other than those specified in paragraphs (1) and (2) of subsection (a), may be made by written agreement between the involved public agencies, provided the pupil with disabilities' IEP is not altered, except as to which agency delivers or pays for the service if such specification is included in the IEP.
- (b) In resolving the dispute, the State Superintendent of Public Instruction and Secretary of the Health and Welfare Agency or their designees shall meet to resolve the issue within 15 days of receipt of the notice.
- (c) Once the dispute resolution procedures have been completed, the department or local agency determined responsible for the service shall pay for, or provide the service, and shall reimburse the other agency which provided the service pursuant to subsection (a) of this section, if applicable.
- (d) A written copy of the resolution shall be mailed to affected parties pursuant to Section 7585 of the Government Code.
- (e) The resolution of the dispute shall be communicated to the originating party within 60 days from the receipt of the complaint by either agency.

Authority Cited: Section 7587, Government Code.

Reference: Sections 7575, 7576, 7577, 7578, and 7585, Government Code.

